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EXAMINER				
LEWIS, JONATHAN V				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/552,784

**Applicant(s)**

ODDO ET AL.

**Examiner**

JONATHAN LEWIS

**Art Unit**

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-37 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 21-37 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 29 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to applicant's amendment filed July 27, 2009.

Claims 21-37 are still pending in the present application. **This action is made FINAL.**

### ***Response to Arguments***

Applicant's arguments with respect to claims 21-37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 21-23, 30, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta (US Pat. No. 6,727,914) in view of Danker et al. (US PG Pub. No. 2004/0172662).**

**Regarding claim 21** (Currently Amended), Gutta teaches a method of displaying content recommendations to a user (Abstract), the method comprising: monitoring content viewed on a content viewing device by a user (col. 2, lines 9-24); determining, by a content recommendation engine, a content recommendation based on the monitored content viewed on the content viewing device by the user (col. 2, lines 25-34); and allowing the user to selectively view on the content viewing device the recommended content or content of the selected channel, wherein the content

recommendation is provided by the content recommendation engine to the content viewing device of user prior to allowing the user to view the content of the selected channel on the content viewing device (Abstract; col. 2, lines 9-34; Fig. 1, 140, 145, 150).

Gutta teaches all the claim limitations as stated above, except detecting when a user initiates a channel change event on the content viewing device; providing the content recommendation to the content viewing device of the user in response to detecting a user initiating a channel change event on the content viewing device, the channel change event associated with the user selecting a channel on the content viewing device.

However, Danker et al. teaches detecting when a user initiates a channel change event on the content viewing device (Abstract); providing the content recommendation to the content viewing device of the user in response to detecting a user initiating a channel change event on the content viewing device, the channel change event associated with the user selecting a channel on the content viewing device (Abstract; Figs. 3a & 3b; 0045 discloses the recommendation via trigger, 0050 discloses the trigger is a channel change).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to detect a channel change and recommend content when it occurs, in order to increase viewing of video on demand programming with the timely recommendation of similar programming for increased profitability.

**Regarding claim 22**, Gutta in view of Danker et al. teaches all the claim limitations as stated above, except the content recommendation is provided using one or more of a rating engine, recommendation engine and profile engine.

However, Gutta teaches the content recommendation is provided using one or more of a rating engine, recommendation engine and profile engine (Abstract discloses the recommendations based on user profile, examiner interprets as recommendation and profile engine).

**Regarding claim 23**, Gutta in view of Danker et al. teaches all the claim limitations as stated above, except the providing the content recommendation comprises: generating at least one recommendation of local or remote content.

However, Danker et al. teaches the providing the content recommendation comprises: generating at least one recommendation of local or remote content (Abstract; Fig. 4, 416/418 shows the VOD content is remote).

System **claims 30, 37** are rejected for the same reasons as stated above in the corresponding method claims.

**Claims 24-25, 28-29, 31, 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trajkovic et al. (US PG Pub. No. 2004/0003392) in view of Danker et al. (US PG Pub. No. 2004/0172662).**

**Regarding claim 24** (Currently Amended), Trajkovic et al. teaches a method of providing to a user a user perceptible indicator of available content (Abstract; Fig. 1), the method comprising: monitoring content viewed on content viewing devices by a plurality of users, wherein the plurality of users is pre-selected by the user (Fig. 2a;

Steps 125 and 127 show where the content of the group viewing is monitored and a profile is created, whereby the user selected the group by choosing to watch with them in steps 110/115/120); determining, by a content recommendation engine, a content recommendation based on the monitored content viewed on a content viewing device by the user (Fig. 2a; 170 shows the recommendation based on the group profile 127); generating the user perceptible indicator of at least a portion of the content viewed on the content viewing devices by the plurality of users; and providing for interaction of the user with the user perceptible indicator (Fig. 1, 20; Fig. 2a, 170).

Trajkovic et al. teaches all the claim limitations as stated above, except detecting when a user initiates a change in system state; in response to detecting when a user initiates a change in system state, generating the user perceptible indicator of at least a portion of the content viewed on the content viewing devices by the plurality of users; and providing for interaction of the user with the user perceptible indicator.

However, Danker et al. teaches detecting when a user initiates a change in system state (Abstract); in response to detecting when a user initiates a change in system state, generating the user perceptible indicator of at least a portion of the content viewed on the content viewing devices by the plurality of users (Figs. 3a & 3b; Fig. 4, 410); and providing for interaction of the user with the user perceptible indicator (Abstract; Figs. 3a & 3b; 0045 discloses the recommendation via trigger, 0050 discloses the trigger is a channel change; Fig. 5, 526 shows a of client devices; however, Danker modifies the viewing of the plurality of users in a group in front of a set of entertainment devices as shown in Trajkovic).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to detect a channel change and recommend content when it occurs, in order to increase viewing of video on demand programming with the timely recommendation of similar programming for increased profitability.

**Regarding claim 25**, Trajkovic et al. in view of Danker et al. teaches all the claim limitations as stated above, except the monitoring comprises: detecting content viewed by a subset of the plurality of users.

However, Trajkovic et al. teaches the monitoring comprises: detecting content viewed by a subset of the plurality of users (Fig. 2b).

**Regarding claim 28**, Trajkovic et al. in view of Danker et al. teaches all the claim limitations as stated above, except the change in system state comprises a channel change event.

However, Danker et al. teaches the change in system state comprises a channel change event (Abstract; Figs. 3a & 3b; 0045 discloses the recommendation via trigger, 0050 discloses the trigger is a channel change).

**Regarding claim 29**, Trajkovic et al. in view of Danker et al. teaches all the claim limitations as stated above, except the interacting further comprises: responding to signals generated by a user-operated remote control device.

However, Trajkovic et al. teaches the interacting further comprises: responding to signals generated by a user-operated remote control device (0020).

**Regarding claim 35**, Trajkovic et al. in view of Danker et al. teaches all the claim limitations as stated above, except the change channel event is associated with the

user selecting a new channel and wherein the user perceptible indicator is configured to allow the user to selectively view the recommended content or content of the new channel.

However, Danker et al. teaches the change channel event is associated with the user selecting a new channel and wherein the user perceptible indicator is configured to allow the user to selectively view the recommended content or content of the new channel (Fig. 4).

**Regarding claim 36**, Trajkovic et al. in view of Danker et al. teaches all the claim limitations as stated above, except the user perceptible indicator is provided to the user prior to allowing the user to view the content of the new channel.

However, Danker et al. teaches the user perceptible indicator is provided to the user prior to allowing the user to view the content of the new channel (Fig. 4).

System **claims 31, 34** are rejected for the same reasons as stated above in the corresponding method claims.

**Claims 26-27, 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trajkovic et al. (US PG Pub. No. 2004/0003392) in view of Danker et al. (US PG Pub. No. 2004/0172662) in further view of applicant's admitted prior art Alexander et al. (US Pat. No. 6,177,931).**

**Regarding claim 26**, Trajkovic et al. in view of Danker et al. teaches all the claim limitations as stated above, except the change in system state comprises activation of a client device.



However, Alexander et al. teaches the change in system state comprises activation of a client device (col. 28, lines 24-26).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to generate the indicator for content view by multiple user and provide interactivity when a client device is activated, in order to provide a customizable way to display a program guide based on the user's profile information.

**Regarding claim 27**, Trajkovic et al. in view of Danker et al. teaches all the claim limitations as stated above, except the change in system state comprises activation of a television viewing system or set top box associated with the user.

However, Alexander et al. teaches the change in system state comprises activation of a television viewing system or set top box associated with the user (col. 28, lines 30-32).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to generate the indicator for content view by multiple user and provide interactivity when a television system is activated, in order to provide a customizable way to display a program guide based on the user's profile information.

System **claims 32-33** are rejected for the same reasons as stated above in the corresponding method claims.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Lang et al. US Pat. No. 5,983,214
- b. Schaffer et al. US PG Pub. No. 2002/0108113
- c. Hane et al. US PG Pub. No. 2002/0157096
- d. Agnihotri et al. US PG Pub. No. 2002/0178440
- e. Shaffer et al. US Pat. No. 6,934,964

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN LEWIS whose telephone number is

(571)270-3233. The examiner can normally be reached on Mon - Fri 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on (571) 272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/  
Primary Examiner, Art Unit 2424